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Fifty-fourth session

SUMMARY RECORD OF THE 1428th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 18 July 1995, at 10 a.m.

Chairman: Mr. AGUILAR URBINA

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GE.95-17608 (E)

The meeting was called to order at 10.05 a.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (agenda item 4) (continued)

Fourth periodic report of the Russian Federation (CCPR/C/84/Add.2) (continued)

1. The CHAIRMAN invited the delegation of the Russian Federation to continue its replies to questions posed orally in connection with section I of the list of issues.

2. Mr. V. KOVALEV (Russian Federation) apologized in advance to members of the Committee who, due to time constraints, might hear answers to some of their questions indirectly, in his replies to questions posed by others.

3. To the question by Mr. Klein on improved monitoring of the enjoyment and observance of human rights, he replied that much would depend on the effective implementation of the law establishing the independent institution of Plenipotentiary for Human Rights and more especially on the replacement of Mr. S. Kovalev in the post. The State Duma, which had already adopted a law on the reform of the Russian judiciary, was currently considering a bill on the holding of suspects and accused persons in custody, a draft Code of Enforcement of Criminal Justice and the draft of a new Criminal Code.

4. In reply to Mrs. Chanet's questions on the functioning of federal structures in Chechnya, he cited: article 82 of the Constitution, which conferred on the President of the Russian Federation the duty to protect the integrity of the State; article 45 on the guarantee of State protection for human rights and freedoms; article 83 on presidential responsibility for the country's military policy; and article 15 on direct action throughout the territory of the Russian Federation in accordance with the law. The Act on Security covered both external and internal threats to the State. Use of the armed forces of the Russian Federation was authorized to disarm illegal armed formations. Units of the Ministry of the Interior operating in the Chechen Republic did so in accordance with statutory instruments. The Act on the Militia (police) empowered those forces to establish constitutional order.

5. On the question of indiscriminate attacks by the federal armed forces, he said that the President had issued a special instruction forbidding the aerial or artillery bombardment of civilian installations or settlements; indiscriminate bombing or shelling was considered a criminal offence.

6. There had been neither a referendum nor elections in the Chechen Republic in 1993.

7. Private and individual rights were duly protected by law. Individuals could apply to the Constitutional Court in order to defend their rights and legitimate interests.

8. The "propiska" or pass system of residence permits had been abolished de jure with the adoption of the June 1993 "Liberty of Movement and Choice of Residence" Act. Its de facto disappearance had occurred almost everywhere, with the notable exceptions of the cities of Moscow and Saint Petersburg.

9. In connection with the questions by Ms. Medina Quiroga, he said that law-and-order measures duly applied by the police forces, for example in guaranteeing security of movement and detaining criminal elements and bringing them to justice on the basis of complaints by citizens, were among the ways in which those forces participated in the active protection of human rights. The independence of the judiciary was strengthened by a number of guarantees: for example, judges could not be replaced or arbitrarily removed from their posts; unless found in flagrante delicto, they could not be held criminally liable, detained or arrested. Other guarantees, as well as provisions related to different degrees of liability, and the personal inviolability of judges and their security in the exercise of their functions, were set out in the Criminal Code.

10. He was not in a position to confirm whether the Presidential Human Rights Commission had been dissolved, but he saw no reason for that to have occurred or to be contemplated.

11. Military tribunals had civil jurisdiction by virtue of the fact that members of the armed forces had general civil status and could be brought before those tribunals on civil charges.

12. Concerning the Procurator's Office, he said that the State Duma had recently adopted a new bill on the subject, which was currently before the Council of the Federation (the other chamber of the Russian Parliament); the outcome of the Council's deliberations on, inter alia, responsibilities for determining the activities of law enforcement officials, could not be prejudged; but the general trend appeared to be in the direction of a continuing transfer of functions of the Procurator's Office to the judicial system.

13. Replying next to Mr. Buergenthal's questions, he said that citizens could indeed file complaints relating to the infringement of their rights as a result of acts by State bodies and their officials. The rights and legitimate interests of persons under detention and of members of the armed forces were generally protected in the same manner as those of all other persons; but special procedures also existed whereby the former could address themselves directly to the Procurator's Office and the latter to its military counterparts. Both civil and military procurators' offices were functioning normally in Chechnya; and although the restoration of the judicial system, which had been totally disrupted, was proving difficult, courts were operating in most areas, with the Supreme Court of the Russian Federation serving as standby, as agreed by himself as Minister of Justice and the President of the Constitutional Court. Ample legislation existed to protect human rights during a state of emergency: more specifically, the suspension of activity by the courts at such times was excluded, as was any interruption in the activities of the Plenipotentiary for Human Rights.

14. Violations of human rights too numerous to mention in detail had indeed occurred during the restoration of constitutionality in the Chechen Republic. All of them merited the closest analysis; but he would for the moment merely point out in special connection with the painful issue of the destruction of schools, hospitals and other public buildings in Grozny and elsewhere, that their wilful occupation by Dudaev's illegal armed groups as centres of

resistance, and those groups' practice of using non-combatants as human shields, had been the cause of a great many casualties among the civilian population and the federal forces alike. Russian soldiers had paid with their lives for the safety of Chechen women and children. The so-called "filtration camps" were a figment of the media's imagination: what did exist in the territory of the Chechen Republic were reception and transit areas where the identity of persons without papers was established, as well as temporary remand and detention centres. There was no time to deal with the subject fully, but he could state that in his official capacity he had invited members of the delegation of the Organization for Security and Cooperation in Europe (OSCE) freely to visit such places of reception and detention. He was not aware of any subsequent claims that they were operated other than in accordance with relevant international standards.

15. In connection with the questions by Mr. El Shafei, he said that, upon the proclamation of a state of emergency in the territory of the Russian Federation, a joint administrative body comprising representatives of the federal executive power and the local self-government authorities assumed responsibility for any necessary actions and regulations. He confirmed that the use of the armed forces to re-establish constitutional order in the Chechen Republic - including the reconstruction of the economy and the restoration of human rights - had been sanctioned by presidential and governmental decrees as well as by a declaration of the State Duma. Concerning the reference to the Geneva Convention of 1949, he said that while that instrument addressed, inter alia, the subject of internal armed conflict, it was the Russian Federation's contention, from the legal point of view, that the situation in Chechnya involved no intergovernmental or inter-State conflict but, rather, the disturbance of the workings of the constitutional machinery as a consequence of activities by illegal armed formations. Proceedings against perpetrators of violations had already been initiated by the Procurator's Office in Grozny. Of the 286 criminal cases brought to date, 80 had been the subject of charges, 94 had been halted, including 54 as a consequence of an amnesty proclaimed by the State Duma; 38 cases were under investigation and a similar number had been opened against members of the federal armed forces suspected of crimes against the civilian population. Contrary to what had been suggested, the Russian Federation had indeed attempted at length to negotiate before the decision had been taken to employ force to restore constitutional order in the Chechen Republic. Negotiations were currently in progress, and a written agreement had been reached on a cease-fire, the disarming of the illegal groups and the subsequent withdrawal from the Chechen Republic of a considerable part of the federal forces.

16. The bulk of Mr. Kretzmer's inquiries had already been answered by the delegation of the Russian Federation in earlier replies. With regard to what had happened in Samashki, he said that the matter had been most carefully examined by the competent authorities, including himself, and by the forces of law and order; it had been established that very serious crimes, involving murder, theft and violence, had been committed by individuals wearing army uniforms that bore no distinctive insignia, and which it was thus extremely difficult to identify. All the evidence collected to date had been transmitted to the Procurator-General of the Russian Federation and investigations were continuing. If they so desired, members of the Human Rights Committee would be informed of any further developments. Members of

the federal armed forces did not have the power of arrest, which lay with the forces of law and order. The former could, however, proceed to seizure and temporary detention before handing detainees over to the latter to be formally placed in custody. Actions by members of the armed forces were subject to supervision by the Military Procurator's Office. The question of civilian disappearances in Chechnya was a complex issue that required careful examination; he would willingly refer any specific inquiries by members of the Committee to the authorities in Moscow and ensure that replies were forthcoming.

17. Concerning Ms. Evatt's questions, he first replied that the President of the Russian Federation had indeed set up a special commission, headed by the Secretary of the Federal Security Council, to investigate all aspects of events in Chechnya, and to report back directly to him. The report was expected shortly. Foreign citizens in the territory of the Russian Federation enjoyed the same general rights as Russian citizens, with some exceptions: for example, they could not hold posts in public service, or obtain employment where military or State secrets would be accessible to them; their electoral rights were also restricted. He did not believe that such limitations were unusual or specific to Russia; but he would listen carefully to any comments by the Committee on the subject. On another question, he said he understood that some 400,000 persons had left the Chechen Republic; legal provision was to be made under the Law on the Rehabilitation of Repressed Peoples and the Law on Victims of Political Repression for the compensation of refugees and "enforced migrants" on an individual basis and on a scale commensurate with the prejudice suffered. The sole criterion under current legislation for determining national identity, including membership of a national minority, was the free expression of the will of the individual concerned. The legal obligation under the Soviet regime to include details of nationality in a person's official documents had been abolished.

18. In reply to Mr. Ando, he said that national entities which had formerly belonged to the Russian Soviet Federative Socialist Republic formed part of the Russian Federation; national formations which had lain outside the borders of the former did not belong to the latter. The case of the Russian Koreans mentioned by the same speaker was the subject of a special investigation and was being handled in the same fashion as the cases of other oppressed people; all such persons were entitled to lodge claims for the protection of their legal rights, and the authorities were empowered to examine and meet their requests. Referring to paragraph 297 of the fourth periodic report (CCPR/C/84/Add.2), he said that agreement between the nationalities in Russia was based on the Federal Treaty, which had made no small contribution to the achievement of stability in what was very much a politically and socially polarized situation. He also referred to the useful functions of the Public Opinion Chamber, created by the President as a means of ensuring interaction between the federal authorities and public associations for the preparation of presidential and governmental decisions on the most important social and political matters.

19. Regarding the fate of the nine Buddhist monks, he said that news of their disappearance had emerged after his delegation had left Moscow, but he had obtained information from the Russian capital that they had last been seen on 9 and 10 July in Grozny, where they had been involved in political

activities. They had entered the Chechen Republic at their own initiative and without the agreement of the local authorities or of Buddhist organizations. They had travelled from Grozny to the southern part of the Chechen Republic, which was under the control of illegal formations. Information regarding their subsequent disappearance had been disseminated only by the mass media, and had not come from the forces of law and order. An investigation had been initiated, and the Committee would be informed of its findings.

20. Turning to the questions put by Mr. Bruni Celli, he said that the manner in which citizens' complaints were handled depended on where they were sent. All ministers and departments were obliged to receive and take account of such complaints, and an answer had to be given within one month of a complaint being received. If complaints were addressed to a court, judicial procedures were followed. Complaints were received by many organizations concerned with the protection of human rights, by the Provisional Supervisory Commission on the Observance of Constitutional Rights and Freedoms of Citizens, of which he himself was Chairman, by the Human Rights Commission headed by Mr. S. Kovalev, by the State Duma and by other bodies. Statistics were available regarding citizens' complaints, and the President of the Russian Federation was regularly informed of the problems which were most frequently raised in citizens' complaints.

21. Some corrective labour establishments came under the Ministry of Justice, but others, traditionally, came under the Ministry of Internal Affairs. The matter was under consideration, and a formula being worked out, to date more in theory than in practice, to bring all such establishments under the Ministry of Justice.

22. If Mr. Bruni Celli had information at his disposal to indicate that the treatment of detainees in the penitentiary system in the Chechen Republic was tantamount to torture, the Ministry of Justice would take the appropriate measures as quickly as possible, but it had no proof of such a practice, and in fact it had ordered the release of certain persons who had been detained in the Chechen Republic without due legal grounds.

23. Replying to the questions put by Mr. Mavrommatis, he said that delimitation of the jurisdiction of the federal authority and the constituent entities of the Russian Federation was set out in articles 71-73 of the Constitution; not all problems in that regard had been solved definitively, but a reasonable legal basis existed for doing so.

24. There were also problems regarding the degree of protection of human rights at the federal level and at the level of the constituent entities of the Russian Federation; the problem was complicated by the number of such entities.

25. The state of emergency in Ingushetia and North Ossetia had not been extended because the bloodshed had ceased. The measures taken to resolve the conflict in the Chechen Republic included the negotiations that were currently being conducted there. Compensation was available to citizens of the Chechen Republic; indeed, the sum of 2.5 trillion roubles was currently allocated for economic and social recovery in Chechnya, and the Government was constantly monitoring the level of damage sustained. A special government

commission headed by Mr. Soskovets was looking at ways of reviving economic activity in Chechnya and providing material and other forms of assistance to those who had suffered from recent events.

26. He had been properly taken to task for using the term "civil rights" when he should have referred to "civil and political rights"; he was in full agreement with Mr. Mavrommatis on that point. He had not, however, said anything about a court of appeal; there was a court which considered complaints from citizens against the mass media, but it was not part of the system of justice.

27. Both the Supreme Court and the Constitutional Court were able to consider and initiate proposed legislation; if a draft law was adopted on the initiative of the Constitutional Court, its legitimacy would thereby be considerably increased.

28. The Russian Federation had many problems in regard to prison conditions; a large number of establishments dated from the Soviet period, and many correctional institutions were housed in premises built in the eighteenth and nineteenth centuries. About 40 per cent of prisons accommodated two or three times as many detainees as was acceptable under international standards. Budgetary allocations were being made in order to rectify the situation, although there was the ever-present problem of limited economic resources.

29. Addressing Mr. Lallah's questions, he said that, during the events of 1993 which had led to the conflict between presidential and parliamentary power, there had been a constitutional deadlock which had not been foreseen by the Constitution then in force. Nothing of the kind would be possible in the future, because the new Constitution contained a mechanism for dealing with such a situation; the question was of merely historical interest. Secondly, the mothers of soldiers who had died in Chechnya did receive compensation; the matter was dealt with by the Ministry of Defence and the Ministry of Internal Affairs, and in the event of failure to obtain satisfaction, recourse to the judicial system was available. Thirdly, lawyers were independent; private lawyers and notaries practised freely.

30. Turning to Mr. Bhagwati's questions, he said that no complaint had been made to the Constitutional Court about any Presidential Decree being in conflict with the Constitution; not even the plenipotentiary for Human Rights, Mr. S. Kovalev, had criticized President Yeltsin's decree on dealing with the country's rising crime rate, which was generally regarded as appropriate.

31. Dissolution of the State Duma by the President of the Russian Federation was provided for in the Constitution, but suspension of the activity of the Constitutional Court was excluded; it was an independent body. However, if the President of the Constitutional Court violated the Constitution or other laws of the Russian Federation, the mechanism provided in the Constitution was that of impeachment. The powers of judges could be suspended, but only in special circumstances, which were not such as to breach the principle of a judge's independence: a judge could be suspended if he was very seriously ill or no longer fit to work, or if he was engaging in commercial activities, contrary to the requirements of the law. In the view of the Russian Federation, there were sufficient guarantees for the impartiality of

judges, but it would welcome any advice from the Committee on how such safeguards might be further strengthened. Finally, a decision of the Constitutional Court was binding on all citizens and officials, including the President of the Russian Federation. If the State Duma passed a law with which the President did not agree, he might impose a veto, but that could be rejected by the State Duma or the Federation Council by a two-thirds majority of those present and voting.

32. He shared almost all the views expressed with regard to Chechnya by Mr. Pocar, who had visited the Republic. All violations of human rights in the Chechen Republic were being investigated, whether they had been committed by illegal armed groups or by federal forces. Staff of the Provisional Supervisory Commission were now operating in Grozny, monitoring the legality of activities in reception and distribution camps; they had secured the release of a number of illegally held detainees. The necessary foundations were being provided for the long-term solution of the problem of resettling refugees, which was not a policy matter but an economic one. The bloodshed had been halted, and the refugee question had been addressed in international forums through contacts with the Office of the United Nations High Commissioner for Refugees (UNHCR); implementation of a federal programme for assistance to refugees depended on negotiations between Ingushetia and North Ossetia. A quota had been established for the return of refugees; that had given rise to some problems, but he was confident they would be resolved.

33. Mr. BRUNI CELLI said his question regarding torture and other degrading treatment had been posed not with reference to particular cases of which he had knowledge but because of statements made in the report itself. Paragraph 96 referred to the actual conditions under which prisoners were to be kept, as laid down in statutory instruments - conditions which came close to torture and degrading treatment. Paragraph 97 stated that there were grounds for the assertion that the statutory instruments and their application in prisons and other correctional establishments did not as yet ensure sufficient freedom from torture and inhuman or degrading treatment or punishment. It was very difficult to accept explanations that were given for violations of human rights. No one denied that the culture of the past had an effect on the present, but it was the State's duty to investigate and punish violations of human rights where they occurred.

34. Mr. LALLAH said his question about Chechnya had been misunderstood. He had been talking about remedies available not to the mothers of soldiers killed there but to the numerous civilian victims and owners of property that had been destroyed. He wished to know what remedies were available to them if the State itself took no action. The State had a duty to investigate human and material losses and to provide a remedy.

35. Mr. MAVROMMATIS said his question had been about the Court of Appeal of the President of the Russian Federation referred to in paragraph 50 of the report. The term "civil rights", used repeatedly in the report, especially with reference to the Constitution of the Russian Federation, was clearly an error; it should have been "civil and political rights". Finally, he was still not clear whether the Constitutional Court had or had not been suspended during the events of October 1993.

36. Mr. KRETZMER said the Committee had been told by the delegation that the President of the Russian Federation had issued a clear directive that civilian targets in Chechnya were not to be bombed. However, it was known that extensive damage had in fact been inflicted on civilian targets, and the Committee was being told that it had been caused by the fact that the Dudaev forces had been sheltering in or near them. He wished to know on what basis that information had been obtained, and whether the delegation was claiming that that was the case in all instances. Were the Russian authorities relying purely on military reports from the area, or did they have other, independent means of verification?

37. Mr. PRADO VALLEJO said there had clearly been many cases of torture, maltreatment and other abuses during the events in Chechnya, and he wondered whether the Ministry of Justice had investigated them; would guilty federal officials and members of the armed forces be punished? He also inquired about the position of the Russian Federation with regard to applications for asylum from persons who had been persecuted in their own countries. Contrary to international rules, Afghans who had sought refuge in the Russian Federation had been handed over to the Afghan authorities, which were persecuting them again. What was Russian legislation in that regard?

38. Mr. V. KOVALEV (Russian Federation) said in answer to Mr. Bruni Celli that paragraphs 96 and 97 of the report referred to the question of liability and did not state that torture per se had occurred. He was able to inform Mr. Lallah that there had been a problem with regard to damage to citizens' property in Chechnya, but it had been settled and due compensation would be paid; a decree had been adopted on compensation and guarantees, and its implementation had commenced. As for Mr. Mavrommatis' concerns regarding the events of October 1993, he was able to clarify the situation: the activities of the Constitutional Court had been suspended, but the proceedings of the Supreme Court and of the Supreme Court of Arbitration had not halted. As for Mr. Kretzmer's question about civilian targets in Chechnya, the information regarding Dudaev supporters taking shelter in and around civilian targets was reliable; it had come from commanders of Russian forces in the field and from commissions that had been to Chechnya, which had not been composed solely of military officers. Finally, he was able to tell Mr. Prado Vallejo that the circumstances surrounding the events in Chechnya were still being investigated and that a report on the matter should be submitted to the President of the Russian Federation within 2 weeks; 38 criminal cases were currently pending against members of the Russian armed forces and State officials.

39. Mr. ROGOV (Russian Federation) said that in 1992 the Russian Federation had acceded to the Convention and Protocol relating to the Status of Refugees and had passed an Act on Refugees and an Act on Enforced Migrants, whose provisions were in line with those of the Convention. There were on the territory of the Russian Federation approximately 500,000 citizens of foreign States who had left the territory of States which had not formerly been part of the Union of Soviet Socialist Republics. There was a procedure for determining which of them were refugees and which were not, but a thorough process for determining their status was not yet in place everywhere. The Russian Federal Migration Service had been set up only recently, but there were procedures operating in a number of regions.

40. One problem was that not all foreign nationals in the territory of the Russian Federation wished to apply to the Federal Migration Service for consideration of their status because many were in transit, with Western Europe as their ultimate destination.

41. Local authorities had decided in 1994 to expel a number of Afghan nationals from the Russian Federation. Representations had been made to the authorities concerned and it had been decided at Federal Government level that in future a court decision would be necessary for any such action. In response to a request for information concerning the reception of the persons concerned on their return to Afghanistan, UNHCR had reported that no repressive action had been taken against them. Moreover, 50 per cent of the Afghan nationals concerned were taking advantage of the permeability of the frontiers between the Russian Federation and other members of the Commonwealth of Independent States to return to the country illegally. With the assistance of UNHCR, preparations were being made for a regional conference on refugees and other migrants, one of the consequences of which would be to strengthen the departments and institutions dealing with refugees and asylum-seekers so that the relevant legal provisions were implemented in practice.

42. The CHAIRMAN invited the delegation of the Russian Federation to respond to the questions in section II of the list of issues, which read:

"II. Right to life; treatment of prisoners and other detainees; liberty and security of the person; right to a fair trial (arts. 6, 7, 9, 10 and 14)

(a) How often and for which offences has the death penalty been imposed and carried out since the submission of the report (see para. 72 of the report)?

(b) Have any measures been taken to investigate the allegations of extrajudicial executions committed in connection with the events of October 1993; to bring those suspected of having committed the crimes before the courts; and to prevent any recurrence of such crimes (see paras. 73 and 85 of the report)?

(c) In the light of the adoption of the Militia Act of 18 April 1991 and of the Act on the Institutions and Bodies that Administer Punishment in the Form of Deprivation of Liberty of 21 June 1993, please clarify what are the rules and regulations governing the use of weapons by the militia and security forces (see paras. 81 to 82 and 140 of the report).

(d) Please comment on steps taken to overcome the 'lack of respect for human dignity' in the army as evidenced by the numerous cases of 'injuries, suicides and desertion from the armed forces' (see para. 104 of the report).

(e) What specific measures have been foreseen to overcome the difficulties in improving the safety level of nuclear installations, which have been defined in paragraph 76 of the report as a 'threat to the life of the population'?

(f) What measures have been taken in response to the growing number of complaints from individuals, public associations or branches of the Procurator's Office concerning torture and other cruel, inhuman or degrading treatment or punishment? Please clarify what concrete steps have been taken to overcome the difficulties in that regard and establish a 'real machinery for monitoring the system of correctional establishment' and elaborate on the respective functions of the Ministry of Internal Affairs and the Procurator's Office in ensuring respect of the provisions of the legislation relating to the treatment of prisoners (see paras. 97, 98 and 168 of the report).

(g) How has the non-derogability of articles 6 and 7 of the Covenant been ensured during the states of emergency proclaimed during the period under review? To what extent has the enjoyment of the rights guaranteed under articles 9, 10 and 14 of the Covenant been affected under those circumstances? In particular, please elaborate on the results of the investigations carried out by the Procurator on violations of human rights that occurred during the state of emergency proclaimed in Moscow in October 1993 as well as on the work of the Federal Governmental Body temporarily established in North Ossetia and Ingushetia (see paras. 52-58 of the report).

(h) What concrete measures have been taken by the authorities to ensure the strictest observance of articles 6, 7, 9, 10 and 14 of the Covenant during the events related to the military operations in Chechnya?

(i) Please elaborate on the specific difficulties faced in implementing article 9, paragraphs 2 and 3, of the Covenant which are mentioned in paragraphs 119 and 120 of the report.

(j) In view of the problems referred to in paragraphs 150 and 157 of the report, please elaborate on concrete measures foreseen to implement fully the provisions of article 10 of the Covenant.

(k) Please clarify what measures have been taken to fully implement article 14 of the Covenant. In particular, has the draft law 'On Amendments and Additions to the Act of the Russian Federation on the Status of the Courts in the Russian Federation' been adopted? (See para. 199 of the report.)

(l) What results have been achieved in the process of reassessment of the functions of the Procurator's Office, and in particular in amending articles 4, 5 and 32 of the 'Act on the Procurator's Office' of 17 January 1992 which, according to paragraphs 133 to 136 of the report, are contrary to the principles of separation of powers and of equality of the parties before the court as embodied in articles 14 of the Covenant and 10 of the Constitution?"

43. Mr. V. KOVALEV (Russian Federation), replying to question (a), said that the death penalty in the Russian Federation was imposed only for extremely serious offences such as terrorist acts, banditry, premeditated murder with aggravating circumstances, rape of minors and certain military crimes. Under

no circumstances could the death penalty be imposed on women, juveniles or men over the age of 65. The State Duma was considering a new Criminal Code that would narrow the range of capital offences. Over the previous 3 years, the courts had handed down between 150 and 160 verdicts annually carrying the death penalty. In 1994, 154 persons had been sentenced to death and the death penalty had been carried out against 13 persons.

44. Turning to question (b), he said that a number of criminal cases had been brought as a result of the events of October 1993. In February 1994, however, the State Duma had issued a decree declaring an amnesty in connection with the adoption of the Constitution and a second decree declaring a political and economic amnesty. As a result, a number of persons had been released and pardoned by the State Duma. The Constitution expressly prohibited extrajudicial executions, and no extraordinary bodies had existed at the time of the October 1993 events with the authority to carry out such executions. People had, however, died as a result of the violence that had occurred at that time.

45. In response to question (c), he said that the 1991 Militia Act regulated the use of firearms and special means by the State security forces. Those provisions had subsequently been extended to other forces of law and order: the bodies responsible for the administration of punishment, the internal troops of the Ministry of the Interior, border guards and the organs of the Federal Security Service.

46. Section IV of the Militia Act attached certain conditions to the use of force by the units of the Ministry of the Interior: the issue of a prior warning; infliction of minimum injuries; provision for the safety of injured persons until the arrival of medical aid; and notification of all cases of injury or death to the Procurator.

47. The legislation categorically prohibited the use of firearms against women, persons who were clearly disabled and minors, except in the case of armed resistance or endangerment of the life of others.

48. The situation was admittedly not entirely satisfactory, but the current provisions were in line with the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, as laid down by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders in 1990. The Procurator's Office was responsible for monitoring compliance with international standards.

49. In 1994, firearms had been used by units of the Ministry of the Interior in 1,441 cases. During the first five months of 1995, they had been used in 550 cases.

50. Turning to question (d), he said that the problems in the army had been dealt with in paragraphs 99-103 of the report. He wished to add, however, that the Ministry of Defence had established close contacts with the Russian Orthodox Church with a view to securing its cooperation in combating lack of respect for human dignity in the armed services and promoting moral and spiritual values. There had recently been a sharp decline in the incidence of

crime in the armed forces associated with breaches of the regulations. In 1994, over 1,400 members of the armed forces had been called to account for such acts under criminal liability provisions.

51. A State plan of action was being prepared with a view to enhancing the security and safeguarding the life and health of service personnel during the performance of military service. The Ministry of Defence had issued an order listing specific measures to be taken in order to prevent death and injury among members of the armed forces. In addition, the Chief Military Procurator had requested the Procurator's Office to monitor progress in that area and a special section had been set up in the Chief Military Procurator's Office to supervise compliance with the law in the investigation of criminal cases relating to the death of service personnel.

52. In response to question (e), he said that careful attention was being paid to the matter of the safety of nuclear installations. Several bills on the subject had been tabled in Parliament. In particular, the State Duma had adopted a bill on the use of atomic energy which was currently being considered by the Federation Council. In addition to addressing the question of safety, the bill included measures concerning access to information on the use of nuclear energy and compensation for damage caused by radiation.

53. The Government had also carried out inspections of all nuclear facilities in the territory of the Russian Federation. As nuclear energy was a necessary part of the country's economic structure, there were as yet no plans to shut down such facilities, but safety was a high priority. The Ministry for Emergency Situations had been assigned a special role in that connection. In 1994, it had organized an international investigation of a dangerous situation that had occurred at the Kaliningrad nuclear power station. The international experts had given a favourable assessment of the early warning system and arrangements for dealing with any accidents that might occur.

54. Replying to question (f) on the treatment of prisoners, he said that there was a marked trend in the Russian Federation away from severe punishment and towards the encouragement of lawful behaviour by detainees and the creation of normal conditions for their detention and rehabilitation. There was a strict system of legal liability for any instance of cruel, inhuman or degrading treatment. The staff responsible for running the system of correctional and detention centres were compelled to maintain correct and humane relations with prisoners. Unfortunately, special force had been used in certain cases without due grounds. Detainees had been beaten and there had been cases of acts of violence between detainees. Special measures had been taken in corrective labour colonies to deal with such situations, and every effort was made in all cases to bring those responsible to account. The Procurator's Office was carrying out inspections, and criminal proceedings would be instituted where necessary.

55. An attempt was being made to introduce statutory provisions to deal with the overall system. The State Duma had replaced outdated legal provisions and adopted a Code of Enforcement of Criminal Justice on first reading. Measures were being taken to ensure the smooth and uninterrupted operation of the system by drawing on funds from federal and regional budgets, although such efforts were being hampered by the universal financial difficulties. There

was a federal programme for the building and reconstruction of the special investigation centres of the Ministry of the Interior up to the year 2000 and a comprehensive programme for the reconstruction of corrective labour colonies.

56. Turning to question (g) on states of emergency, he said that the Procurator's Office had investigated violations of human rights during the events of October 1993 and had established that abuses had been perpetrated by the forces implementing the state of emergency. On the instructions of the President of the Russian Federation, cases of abuse by the Ministry of the Interior, the Ministry of Security and the Ministry of Defence had been investigated and all statutory instruments promulgated by the Government of Moscow during that period had been examined to determine their compatibility with the legislation of the Russian Federation. In all, 115 complaints had been made regarding unlawful acts by members of the forces of law and order during the emergency and 36 criminal cases had been brought. Since the adoption by the State Duma of an amnesty decree in spring 1994, some of those proceedings had been terminated.

57. A state of emergency had been declared in part of the territory of North Ossetia and Ingushetia in connection with the armed conflict in 1992. The situation had subsequently stabilized in both republics, and there was no further bloodshed. During the state of emergency, the organs of the judiciary and the executive in the republics had functioned normally. The state of emergency had been lifted in February 1995 and the temporary administration terminated.

58. As question (h) had already been answered in the introductory statement, he turned to question (i). Arrest and holding in custody was currently possible only on the basis of a judicial decision. New federal legislation on criminal procedure was necessary to ensure full implementation of that provision and the State Duma was currently discussing a new code.

59. With regard to the procedure for bringing an arrested person before a court as swiftly as possible, there were many remote areas in the Russian Federation where it would be difficult to comply with a provision that set very strict time-limits. Allowance would therefore be made in the legislation for such circumstances.

60. In response to question (j), he said that the legislation of the Russian Federation had taken account of the provision of article 10 of the Covenant, particularly with regard to the right of persons deprived of their liberty to humane treatment, the separation of accused from convicted persons and the separation of juveniles from adults. Persons held in places of detention were guaranteed, inter alia, the right to personal safety, to communicate with their relatives and defence counsel, to carry on a correspondence and to receive foodstuffs and medical supplies free of charge. The practical enjoyment of those rights was, however, hindered by certain difficulties related, in particular, to economic factors.

61. In response to question (k), he said that many provisions of article 14 of the Covenant had been incorporated in the Constitution, in particular the right to equality before the courts, the entitlement to a fair and public

hearing and the presumption of innocence. Under the Code of Criminal Procedure, neither the Procurator's Office nor the investigating officer was entitled to present evidence. A closed hearing was permitted only in cases provided for by federal law. A jury system had been introduced and measures had been taken to ensure genuine independence of the judiciary. In the event of violation of the principle of judicial impartiality, criminal proceedings would be instituted.

62. Replying to question (1), he said that the 1992 "Act on the Procurator's Office" was obsolescent and had been amended by the State Duma. Under the amended Act, in addition to its responsibility for criminal investigations, the Procurator's Office was responsible for overseeing respect for the rights and freedoms of individuals by officials, local self-government authorities and military and other bodies. Although regulation of the jurisdiction and powers of the Procurator's Office had not yet been completed, efforts were being made to ensure that the relevant articles of the Covenant were taken into account in the process.

63. The CHAIRMAN invited the delegation of the Russian Federation to respond to the questions in section III of the list of issues, which read:

"III. Freedom of movement, right to privacy, freedom of thought, conscience and religion, freedom of expression, prohibition of propaganda for war and incitement to national, racial or religious hatred, right to freedom of association, non-discrimination and equality of sexes, and protection of the family and children (arts. 3, 12, 17, 18, 19, 20, 22 and 25)

(a) Please clarify whether the Act on 'Procedure for Citizens of the Russian Federation to Travel Outside the Limits of the Russian Federation and to Enter the Territory of the Russian Federation', referred to in paragraph 174 of the report, has been adopted. Please elaborate on remaining limits, if any, on the right freely to leave and return to the country.

(b) Please provide information concerning the law and practice relating to permissible interference with the right to privacy.

(c) Please elaborate on limitations, if any, on freedom of conscience and religion (paras. 216 and 218 of the report).

(d) Has the Draft Act on Alternative Service, which provides for the right to perform a non-military service on grounds of conscience, already been adopted (see paras. 220-221 of the report)?

(e) Please provide further information on measures taken pursuant to the Mass Media Act concerning freedom of the press and television and describe current practice regarding censorship and control of the media (see paras. 223 to 235 of the report).

(f) Please elaborate on measures that can be taken against associations that make propaganda for war or incitement to national, racial or religious hatred. What are the powers of the President of the Federation in that regard (see para. 238 of the report)?

(g) In view of the difficulties referred to in paragraphs 46 to 48 of the report, please clarify what measures have been taken to ensure an adequate legal protection of family and children in conformity with articles 2, 23 and 24 of the Covenant.

(h) Please elaborate on the concrete measures that have been taken to enhance and reinforce the status of women. Please provide current data concerning the number and proportion of women in the political, economic, social and cultural life of the country."

64. Mrs. ZAVADSKAYA (Russian Federation), replying to question (a), said that the Act of the former USSR on "Procedure for Citizens of the USSR to Leave the USSR and to Enter the USSR" had been brought into force in the Russian Federation on 1 January 1993. Limits on the right freely to leave and return to the Russian Federation were imposed on persons with access to State secrets or with unfulfilled contractual obligations; persons against whom criminal proceedings were still pending; convicted persons until their sentence had been served; persons with outstanding obligations imposed by a court; persons who had provided false personal information; persons called up for military service; persons against whom a civil suit was pending; and persons recognized as repeat offenders or under administrative supervision by the militia.

65. Significantly, the number of refusals to provide foreign passports involved approximately 1 per cent of all applicants. If a foreign passport was refused, the person in question had the right to appeal to the courts. It should be noted that, in 1993, 3 million passports had been issued. In 1994, foreign passports had been issued to 2.2 million people, 106,000 of whom had left to take up permanent residence abroad.

66. The State Duma was currently considering a draft act regarding entry to and exit from the Russian Federation, which had been adopted by Parliament on first reading. Article 2 of that draft act established more severe restrictions on the refusal to permit an individual to depart from that country than had previously obtained: first, if a citizen possessed top secret information, until the lapse of that limitation, as provided for by the Act "State Secrets"; second, if a citizen was called up for military or alternative service; third, if he was arrested on suspicion of having committed a crime or was charged with that crime; and, fourth, if he was convicted of a crime. Those were the only limitations set forth in that new draft law.

67. Turning to question (b), she said that article 23 of the Constitution guaranteed everyone the right to privacy, to personal and family secrets, and to the protection of his honour and good name. It also guaranteed the right to the privacy of correspondence, telephone communications, mail, cables and other communications. Limitations on that right were permitted only by court order. In accordance with article 24 of the Constitution, the collection, storage, use and dissemination of information concerning the private life of any person without his assent was forbidden. Furthermore, State and local

authorities were obliged to provide access to all documents and materials which directly affected his rights and freedoms, unless otherwise stipulated by law. In addition, federal legislation established a system for the enforcement of the rights guaranteed in articles 23 and 24 of the Constitution. The Criminal Code, for example, established criminal liability for divulging adoption-related secrets against the will of the adopter, for divulging information arising from preliminary investigations without the consent of the person in question, for violating the confidentiality of correspondence and communications, and for conducting unlawful searches of homes. Federal legislation also set out rules and norms governing privacy standards within the medical and legal professions. A 1992 law concerning investigative activities provided that such rights could only be limited by order of the Procurator's Office.

68. On 5 June 1995, the State Duma had adopted a federal law concerning the conduct of investigative activities, which established that any restriction of the right of citizens to privacy required a court order. That law also prohibited divulging information which emerged during an investigation and which violated an individual's right to privacy without his consent.

69. The new Code of Criminal Procedure would contain stronger protection with regard to the right to privacy. The Code currently in force did not, in the view of the Government, embrace sufficient guarantees to ensure that right. Article 15, paragraph 3, of the Constitution stipulated that the laws of the Russian Federation were to be officially published for general reading, an important clause in the light of the practice prevalent in the former Union of Soviet Socialist Republics.

70. Turning to question (c), she said that since paragraphs 213 to 222 of the report described in detail the legal apparatus which protected the rights to freedom of thought, conscience and religion in the Russian Federation, she would simply highlight several points. Firstly, the right freely to profess a religion was not subject to any restrictions whatever. Furthermore, article 29 of the Constitution forbade propaganda that advocated religious supremacy. Article 6 of the "Freedom of Religion" Act provided that an individual guilty of incitement to hatred and enmity against another for his religious or atheistic beliefs was subject to prosecution. In addition, public servants were forbidden to use their official powers to propagate religious beliefs.

71. Concomitantly, religious organizations whose purpose was to champion the right to freedom of religion were forbidden from encroaching on the fundamental rights of others. Article 4 of the "Freedom of Religion" Act obliged religious organizations active on the territory of the Russian Federation to abide by Russian law. Members of the armed services were currently permitted to profess their religions as individuals and to attend the house of worship of their choice; religious associations within the military were not, however, permitted. Finally, legislation established no restrictions on the activities of foreign missionaries on Russian soil. In 1993, the former Supreme Council of Russia had passed a draft law placing restrictions on the work of missionaries; it had been vetoed by the President on the grounds that it would have violated the right to freedom of religion.

72. Turning to question (d), she said that the draft Act on Alternative Service, passed by the Duma on first reading, in 1993, would implement the

recommendation contained in the Final Document of the 1990 Copenhagen meeting of the Conference on the Human Dimension of the CSCE as well as a recommendation of the Committee of 8 March 1995. That draft Act set forth the conditions and procedures governing recourse to alternative service and provided that an individual would be entitled to perform alternative service in lieu of military service, if his religious beliefs precluded participation in military activities. Any decision pertaining thereto could be appealed against in a court of law. The term of alternative service would probably be set at one and a half times that of military service; the question was currently being assessed by a military committee.

73. In reply to question (e), she said that article 29, paragraph 5, of the Constitution guaranteed freedom of the mass media and prohibited censorship. The relevant federal legislation prohibited censoring or interfering with the mass media; infringing on the professional independence of editors; violating the rights of editors to obtain and dispose of information; and exercising coercion against journalists to prevent them from gathering and disseminating information.

74. The Russian Federation was in the process of adopting a federal law governing State support to the mass media, which stipulated that such support must be granted irrespective of the recipient's loyalty to State authorities and of the nature of the information disseminated. Article 29 of the Constitution guaranteed freedom of thought and expression. Propaganda which incited people to social, racial, national, religious hatred or enmity as well as that which encouraged social, racial, national or religious supremacy was forbidden. That constitutional ban had recently been written into domestic legislation. On 19 May 1995 a law had been adopted prohibiting social organizations whose purpose was to disrupt the constitutional system by use of force, to violate the integrity of the Federation, to threaten the security of the State, to set up armed organizations, or to engage in incitement to social, racial, national or religious hatred. Such organizations could be dissolved by court order and their activities banned, whether or not they were registered with the State. Article 14 of the Decree regulating meetings, rallies and demonstrations stipulated that an assembly could be banned by a local government authority if its purpose was to foster activities expressly proscribed by law. The refusal to allow an assembly to be held must be issued in writing; concerned individuals could then enter an appeal with a court of law, which was required to review it within three days.

75. In reply to question (f), she said that those who propagated war or violated the rights of others on the basis of race or creed were subject to prosecution. In May 1994, the President of the Russian Federation had issued a decree concerning the State-level coordination of efforts to halt manifestations of fascism and other forms of extremism. A draft Act amending and revising the Criminal Code, the Code of Criminal Procedure and the Code on Administrative Offences established criminal or administrative liability in respect of activities whose purpose was the spread of such extremist ideas. On 5 June 1994 that Act had been forwarded to the President by the State Duma.

76. Turning to question (g), she said that, firstly, the State Duma had in 1993, adopted a Family Code which treated the child as a full participant in the family. The relevant international instruments had been fully considered in the elaboration of that Code: the Universal Declaration of

Human Rights, the Convention on the Rights of the Child, the International Covenant on Civil and Political Rights, and the Convention on the Elimination of All Forms of Discrimination against Women.

77. Secondly, the Women-in-Russia caucus within the State Duma had proposed the ratification by the Russian Federation of ILO Convention No. 156, which addressed the question of equal opportunity for and between men and women in the matter of family duties. The issue was under consideration by the relevant State bodies. In addition, the draft Labour Code devoted a special chapter to the family responsibilities of workers.

78. Thirdly, a federal law had been adopted concerning State benefits for citizens with children which guaranteed a minimum level of State material support to families with children. The Act on the privatization of housing had also been revised and amended to protect the rights of children and young people and to prevent their homelessness. In addition, the Government had begun to implement a federal programme for the protection of mothers. It had also established the Children-of-Russia programme to improve the economic and social status of children. That programme was one of several devoted to assisting families in the transition to a market-economy system.

79. Replying to question (h), she said that, since the question of the status of women had been fully addressed in the periodic report of the Russian Federation to the Committee on the Elimination of All Forms of Discrimination against Women, she would limit herself to a few brief remarks concerning the political situation of women. Several statistics should prove useful: the proportion of women among State Duma members was 1.4 per cent, although the proportion of women in State-management bodies came to 70 per cent. There were virtually no women at the highest levels of the federal Government. Women accounted for 50 per cent of all judgeships, but a much smaller percentage at the highest levels of the judiciary.

80. It was also true, however, that women in the Russian Federation were actively creating and participating in women's organizations, of which 300 now existed. Three such organizations, which had sprung up at the time of the 1993 election campaigns, had joined together to launch the political movement known as Women-in-Russia. That movement had won 8.1 per cent of the total votes, taking fourth place among parties and 23 parliamentary seats in the Russian Parliament. The express goal of Women-in-Russia was to define and protect the interests of Russia's women and to bring about equality of the sexes. Finally, while the overall unemployment rate among the working population of the Russian Federation was 2.3 per cent, women constituted the majority of that group - up to 70 per cent in certain regions. The regional level of unemployment among women depended, however, on the rapidity with which the regional means of production were shifting from a centrally-controlled to a market system. The Government was concerned by the high levels of unemployment among women, and was taking measures to combat it.

81. Regrettably, no information was available concerning rape by members of the militia. If any such information were forwarded to her, however, she would not fail to transmit it to the relevant bodies so that criminal liability could be assessed.

82. Finally, there were various mechanisms in the Russian Federation dealing the protection of the rights of women: the Commission on Women; a special

department within the Ministry of Social Protection addressing the problems of women; and a special parliamentary committee concerned with questions related to women, families and young people. Furthermore, the administrations of all constituent entities of the Russian Federation had special units to address questions related to the status of women. The contribution made by the parliamentary Women-in-Russia caucus could not be overestimated.

83. The CHAIRMAN invited the members of the Committee who so wished to put further questions to the Russian delegation.

84. Mr. BHAGWATI said that he was profoundly concerned to find that the death penalty was still in force in the Russian Federation. According to a report prepared by the Council of Europe following a visit of June 1994, 14 offences were still punishable by death. According to paragraph 68 of the report before the Committee, however, an Act of 5 December 1991 rescinded the death penalty for aggravated infringement of the rules on currency operations, for robbery on an especially large scale, and for the taking of bribes in especially aggravating circumstances. Which of those two statements was correct? Furthermore, paragraph 69 of the report before the Committee stated that by virtue of an Act of 17 December 1992, the death penalty could be replaced by life imprisonment. It would be useful to know under what conditions and circumstances such a commutation was made. The report of the Council of Europe also asserted that an amendment of April 1993 expanded the list of aggravating circumstances on the basis of which the death penalty could be imposed in the event of premeditated murder. In what respects was that list expanded? Paragraph 72 of the report stated that 223 executions had been carried out in 1993, 159 in 1992, and 147 in 1991. If he had correctly understood the oral presentation of the Russian delegation, 144 persons had been executed in 1994. Those figures were abnormally high. What was the reason for so many in the previous three or four years?

85. The report of the Council of Europe further stated that the Military Procurator-General had admitted that in 1993, 2,570 deaths had occurred in the army; that figure included 461 suicides. In 90 per cent of those cases, the family had not been permitted to open the coffins to verify the cause of death. The report also asserted that deaths by suicide in the military ensued from excessively harsh military discipline. For otherwise, what could account for so many deaths and suicides? What was being done by the Government of the Russian Federation to reduce their incidence?

86. While there apparently existed a presidential commission on the commutation of sentences, he understood that it normally took three to four years to come to a decision. Such conditions necessarily provoked great anguish and mental suffering in prisoners; would it not be preferable to establish a three-month time-limit, for example, within which such decisions were required to be taken?

87. Ms. MEDINA QUIROGA said that she had earlier stated that she was baffled by the use of the militia as a human rights protection mechanism. Militias were often violators of human rights, and needed supervision themselves. Furthermore, the fact that militias were supervised by the Procurator continued to trouble her. While she understood that no information was currently available, she strongly urged the Russian Federation to include it in the next report. Paragraph 81 of the current report indicated that members of the militia were authorized to use weapons against individuals who offered

armed resistance but also against those who had committed serious offences. It would be useful if the delegation would provide clarification on the meaning of that statement. Paragraph 82 also asserted that a member of a militia unit could use a weapon in the event of a direct threat to the health of personnel, colleagues, and condemned and imprisoned persons. She asked the delegation to describe the circumstances under which such a threat would obtain.

88. With regard to article 14, she said that it would be useful to know if article 447 of the Civil Code contained the same guarantees as those set forth in the Act of 27 April 1993 on "Legal Proceedings against Actions and Decisions that Infringe Civil Rights and Freedoms". If not, what guarantees were provided by that Act? Furthermore, the Russian Federation did not seem to understand the concept of the independence and impartiality of the judiciary, perhaps owing to the brevity of the relevant provision in the Covenant. Had the jurisprudence of international courts or academic writings been used to determine its meaning? Also troubling was the statement in paragraph 137 that the Act on "The Status of Judges" was more progressive than the Covenant, which constituted a problem. How could that constitute a problem? Chapter 7 of the Constitution was indeed so cryptic that it could be variously interpreted. Paragraph 199, which asserted that the Act on "The Status of the Courts" suffered from the opposite problem, only heightened her confusion.

89. Paragraph 51 of the Constitution established the right to silence, but it also indicated that the "range" of that right would be established by law. What was that "range"?

90. She would not belabour the issue of fairness in criminal trials; the report had clearly demonstrated that criminal trials in Russia were unfair, the role of the Procurator being what it was. Information, would, however, be useful with regard to fairness in civil trials.

91. The status of women was undoubtedly unequal to that of men in the Russian Federation. She regretted that the women of that country had been herded into one political movement, rather than being encouraged to participate in political life in accordance with their differing ideologies. The high unemployment rate among women was no surprise; the problem was of a cultural order. Much of the legislation in force in the Russian Federation whose intention was to protect women prevented their fair participation in the job market. Moreover, no information had been provided on domestic violence or on rape. According to a report in the Moscow press of April 1995, in 1993 there had been 13,000 recorded cases of rape, and 14,000 murders of women by their husbands. The report had given little attention to those problems, especially in the light of the generous concern paid to all matters related to the military.

The meeting rose at 1.05 p.m.